

**Standard Operating Procedure (SOP) 2005-01**

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**Subject:** Permitting requirements for transportation activities

**Effective Date:** 14 June 2005

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**Issue:** Permitting requirements vary greatly for the variety of transportation activities carried out by Federal, state and local department of transportation agencies. Generally, permit requirements are determined on a case-by-case basis. However, it would be helpful to these agencies to have some guidelines to reference to see if the work could be exempt or require a NWP or SIP.

**Discussion and Conclusions:**

**EXEMPT ACTIVITIES** – the work is within the Corps' jurisdiction but no permit is required:

1. See the IG on exemptions and transportation structures for a description of "transportation structures" and a list of exempt activities.
2. Erosion repair/protection work within jurisdictional ditches and previously authorized channelized streams may be exempt under 33 CFR 323.4(a)(2) provided that work is conducted such that: There is no modification to the character of the original fill design (i.e. no change in materials - e.g. scoured gravel bed materials cannot be replaced with riprap). Temporary structures, such as sandbags, necessary to allow exempt work to be conducted in isolation from flowing waters, are also exempt.
3. Grouting, sieving and slip lining for culvert repair or replacement that does not change the original footprint of the culvert.
4. Culvert replacement provided there is no change in the scope, size or character of the original fill design, the culvert length is not increased, no change in the alignment (although the diameter may be increased), no placement of riprap around the mouth of the culvert in natural or channelized streams or wetlands and no backfilling of material beyond the original fill footprint of the culvert or road bed.  
The placement of splash pads is exempt if placed in adjacent roadside ditches (see IG on exemptions and transportation structures).
5. Replacement of a culvert with a different shape and diameter if within original fill footprint (e.g., a round pipe culvert can be replaced with a three sided box culvert with a gravel bottom).
6. Bridge footing repair and riprap replacement around bridge footings is exempt as maintenance repair of a transportation structure and if the bridge is in navigable waters, it does not require a Section 10 permit from the Corps because the bridge is regulated by the Coast Guard under Section 9 of the Rivers and Harbors Act.
7. Bank protection requiring riprap is exempt if the Corps previously authorized the original bank protection and the repair work is required due to emergency erosion repair and the bank protection does not exceed the previously authorized fill footprint.

NO PERMIT REQUIRED ACTIVITIES – the work **is not** within the Corp’s jurisdiction (e.g., in uplands) or the activity is not a Corps regulated activity (e.g., placement of a structure in a wetland or other 404 water); therefore no permit is required:

1. Ditch widening does not require authorization from the Corps if the ditch widening is a result of excavation in uplands. Also, ditch widening in wetlands or below the line of ordinary high water (OHW) does not require authorization from the Corps if the ditch widening results in only incidental fall back below line of OHW of a jurisdictional ditch or within a wetland. No stockpiling of excavated material is allowed in wetlands or below the line of OHW of jurisdictional ditches.
2. All newly constructed ditches dug in uplands does not require authorization from the Corps. If a newly constructed ditch will be joined with a jurisdictional water of the U.S. including jurisdictional ditches and wetlands, a plug shall be placed at the point where the new ditch will join the water of the U.S., and the plug removed after the new upland ditch portion is constructed. The plug shall be removed cleanly with only incidental fallback by lifting the plug material and not dragging or pushing the plug material into waters of the U.S. The plug material shall be placed or stored in uplands only where the material cannot flow, or slough back into waters of the U.S.
3. “Clean excavation” in any water of the U.S. (e.g., a roadside ditch or straightened creek) for maintenance of channel to as-built conditions including removal of trash/garbage, yard waste, debris, and slough, rock fall, or slide material, or for fish way or fish bypass maintenance to as-built conditions. See “clean excavation” IG.
4. Placement of structures in non-navigable waters. See “definition of fill” IG.

ACTIVITIES AUTHORIZED BY NWP – the work is within the Corps’ jurisdiction, the activity is a Corps regulated activity and therefore, a permit is required

1. Minor culvert extensions, backfill, and road repair associated with a culvert extension as necessary to repair smashed or broken culverts or roadway. (NWP 3)
2. Ditch fill required to extend an existing bus pull-out lane as required to meet federal safety standards (NWP 3)
3. Ditch fill required to construct a new bus pullout lane. This would require a portion of the ditch to be relocated or culverted. (not NWP 3 because this is a new use or new feature, possibly NWP 14, 18, 23)
4. Fill in roadside ditch for slope flattening as required to meet federal and local safety standards for slope grade and shoulder width. This would require the ditch to be replaced with a like system, or adjacent roadside ditch to replace the lost functions of the filled ditch. (NWP 3, 14, 18, 23)
5. Ditch fill as required to meet federal High Occupancy Vehicle (HOV) lane construction requirements. This would require the ditch to be replaced with an adjacent roadside ditch to replace the lost functions of the filled ditch. (not NWP 3 because this is an expansion of the existing use; but possibly NWP 14, 18, 23)
6. Fill material placed around a culvert that is placed in a roadside ditch for temporary construction or temporary access purposes is allowed as a minor deviation provided the fill material is completely removed upon removal of the culvert. (NWP 33)
7. Channel, ditch, or fish way maintenance activities that include removal of the root systems of trees and shrubs (NWP 3 if removed only to previously authorized channelized stream or ditch shape and depth; NWP 18, 19, 41 if removing outside of authorized shape or depth, or within the boundaries of a wetland)

8. Reshaping a jurisdictional ditch or previously authorized channelized stream for work below the line of OHW (if more than 500 linear feet notification to the Corps is required). (NWP 41)
9. Fish way maintenance, repair or replacement that will result in fill material placed below the OHWL and beyond the road footprint including: ballast installation, rip rap placement, or backfilling around logs and other structures below the OHWL with gravel, dirt, or other material, or pouring concrete. (NWP 18)
10. Temporary channel bypasses constructed with fill material (not a structure) and required for non-exempt activities. If an activity requires Corps authorization, then the Corps must also review any temporary structures necessary for the activity. (NWP 18, 33)
11. Channel or bank erosion repair/protection work that changes the character of the original fill design (i.e. change in material - e.g. use of riprap to replace scoured gravel bed material) (NWP 13, 18, 23)
12. Backfilling jacking holes in wetland or below the OHWL at the completion of a culvert or road repair project. (NWP 13, 18, 23)
13. Tight-lining an open roadside ditch. (NWP 14, 18, 23)

**Conclusion/Summary:** This guidance is for general reference. The Corps should be consulted regarding a specific project if there is a question.

**Additional References:** None. Note: This SOP is also in the form of an Internal Guidance Entry.

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Date

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